

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Dwayne Deleston,

Civil No. 12-1682 (RHK/SER)

Petitioner,

ORDER

v.

Scott P. Fisher,

Respondent.

The above-captioned case comes before the undersigned on the September 24, 2012, Report and Recommendation of United States Magistrate Judge Steven E. Rau. Objections to the Report and Recommendation were filed within the requisite time period. The undersigned having conducted a de novo review of the Report and Recommendations and the Objections thereto, along with all the files, records and proceedings herein, **IT IS ORDERED:**

1. The Objections (Doc. No. 7) are **OVERRULED**;
2. The Report and Recommendation (Doc. No. 6) is **ADOPTED**;
3. Petitioner's application to proceed in forma pauperis (Doc. No. 2) is **DENIED**;

and

4. This action is **DISMISSED WITHOUT PREJUDICE**.

Dated: October 15, 2012

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge